

HOUSE BILL NO. 139

INTRODUCED BY G. BRANAE

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A LEGISLATIVE BRANCH RETIREMENT TERMINATION RESERVE ACCOUNT; PROVIDING FUNDING FOR THE ACCOUNT FROM LEGISLATIVE BRANCH CARRYOVER FUNDS; PROVIDING A STATUTORY APPROPRIATION AND A FUND TRANSFER; AMENDING SECTIONS 17-7-304 AND SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Legislative branch retirement termination reserve account.** (1) There is a legislative branch retirement termination reserve account in the state special revenue fund. Money may be deposited in the account through an allocation of money to the account or as provided in 17-7-304.

(2) (a) The money in the account is statutorily appropriated, as provided in 17-7-502, to the legislative services division to be used only for staff retirement termination pay in the legislative branch.

(b) The money in the account may be expended only with the approval of the appropriate branch division director for eligible termination pay expenditures for division staff.

(3) The account is limited to an amount to be calculated at the beginning of each biennium based on an analysis by branch division directors of the staff eligible for retirement within the biennium. For the 2009 biennium, the limit is set at \$400,000.

(4) The money in the account must be invested pursuant to Title 17, chapter 6. The income and earnings on the account must be deposited in the account.

~~Section 2. Section 17-7-304, MCA, is amended to read:~~

~~"17-7-304. Disposal of unexpended appropriations. (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) [or state money appropriated for the state children's health insurance program provided for in Title 53, chapter 4, part 10,] and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the~~



1 several funds and accounts from which originally appropriated. However, any unexpended balance in any specific
 2 appropriation may be used for the years for which the appropriation was made or may be used to fund the
 3 provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

4 ~~———(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the~~
 5 ~~university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university~~
 6 ~~campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices~~
 7 ~~at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative~~
 8 ~~extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in~~
 9 ~~Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of~~
 10 ~~regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as~~
 11 ~~provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and~~
 12 ~~deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university~~
 13 ~~system units and approved by the board of regents. The affected university system units may, with the approval~~
 14 ~~of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The~~
 15 ~~board of regents shall communicate the plan to each legislature, to the finance committee when requested by~~
 16 ~~the committee, and to the office of budget and program planning.~~

17 ~~———(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed~~
 18 ~~by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the~~
 19 ~~governor must revert to the fund or account from which it was originally appropriated.~~

20 ~~———(4) (a) Subject to subsection (4)(b), after the end of a fiscal year, 30% of the money appropriated to an~~
 21 ~~agency for that year by the general appropriations act for personal services, operating expenses, and equipment,~~
 22 ~~by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be~~
 23 ~~spent during the following 2 years for any purpose that is consistent with the goals and objectives of the agency.~~
 24 ~~The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office~~
 25 ~~of budget and program planning.~~

26 ~~———(b) (i) Any portion of the 30% of the unexpended and unencumbered money referred to in subsection~~
 27 ~~(4)(a) that was appropriated to a legislative branch entity may must be deposited in the account established in~~
 28 ~~[section 1], subject to the limit in [section 1], and the remainder must be deposited in the account established in~~
 29 ~~5-11-407.~~

30 ~~———(ii) After the end of a biennium, any portion of the unexpended and unencumbered money appropriated~~

1 for the operation of the preceding legislature in a separate appropriation act may be deposited in the account
 2 established in 5-11-407. The approving authority shall determine the portion of the unexpended and
 3 unencumbered money that is deposited in the account. (Bracketed language terminates on occurrence of
 4 contingency--sec. 7, Ch. 565, L. 2005.)"

5

6 **Section 2.** Section 17-7-502, MCA, is amended to read:

7 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 8 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
 9 need for a biennial legislative appropriation or budget amendment.

10 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
 11 of the following provisions:

12 (a) The law containing the statutory authority must be listed in subsection (3).

13 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 14 appropriation is made as provided in this section.

15 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-407; section
 16 1; 5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121;
 17 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369;
 18 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319;
 19 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107;
 20 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306;
 21 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504;
 22 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870;
 23 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161;
 24 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

25 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 26 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 27 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 28 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 29 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 30 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of

1 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L.
 2 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
 3 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
 4 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion
 5 of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202,
 6 23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005,
 7 the inclusion of 15-31-906 terminates January 1, 2010.)"

8
 9 NEW SECTION. Section 3. Fund transfer. There is transferred ~~\$300,000~~ \$400,000 from the general
 10 fund IN FISCAL YEAR 2008 to the legislative branch retirement termination reserve account provided for in [section
 11 1].

12
 13 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
 14 integral part of Title 5, chapter 11, and the provisions of Title 5, chapter 11, apply to [section 1].

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 16 ~~NEW SECTION. Section 6. Contingent voidness.~~ If [this act] does not contain a specific general fund
 17 transfer, then [section 8] is void.

18
 19 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2007.

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 21 ~~NEW SECTION. Section 8. Retroactive applicability.~~ [Section 2] applies retroactively, within the
 22 meaning of 1-2-109, to carryforward appropriations created after July 1, 2005.

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